UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,184	08/31/2001	Timothy Orr Knight	0006-003002	4257

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EXAMINER
APPLE, KIRSTEN SACHWITZ

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _121-145_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _121-145_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _30 August 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _8-12-05, 5-1-03 &_ . 12-17-01

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

This action is in response to the application filed on 08/31/2001.

Priority

Acknowledgment is made of applicant's claim for continuation of US

Application No. 09/173,853 filed on October 16, 1998.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

Claim 121-144 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

In particular independent claims 121, 135 & 139 are indefinite as to what

is being claimed. It is unclear to the examiner and one of ordinary skill in the art

what is claim by this description. In claims 121 & 139 it is unclear if a "program"

or is it an "interface" is being claimed. In claim 135 it is unclear if a "program" or a

database (the article that "stores and retrieves") is being claimed. For the

purposes of this review the examiner will interpret claims 121-144 to be "a

program."

In addition, claims 122, 123, 129, 130, 131, 133, 135, 137, 139, 140, 143,

144 are indefinite because the include "and/or" it is necessary for the applicant to

choose either "and" or "or" to more clearly and distinctly describe their claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 121-144 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In particular, at least the independent claims recite a "program." The examiner is interpreting the program as a "computer program." The MPEP section 2106 (page 2100-13 of MPEP version 8) clearly outlines "Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

Corrective action to Claims 121-144 is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 121-144 are rejected under 35 U.S.C. 102(b) as being anticipated by Trojan et al. (U.S. Patent 5,297,032).

Re claim 121: Trojan discloses:

A stock trading workstation, which is capable of:

receive the following information for use by the program to create a stock transaction record [see Torjan, Figure 4]

(i)   a potential or actual date *range* for a stock related transaction by a user;

and

(ii)   a particular stock associated with said stock related transaction [see

Torjan, Figure 4, item 440]; and

(iii)   user transaction information concerning said stock related transaction,

including at least one of the following items of information for engaging in said

stock related transaction: (a) a user-subjective rationale; (b) a technical indicator;

(c) a third party opinion; (d) and/or a source of said subjective rationale, said

technical indicator, and/or said third party opinion; [See Trojan, Figure 4, item

435, the Examiner is interpreting the claim as a system is capable of allowing the

above user input and item 435 is user input]

a feedback interface also operable within said Internet browser, said

feedback interface being configured so that stored transaction information from

one or more stored stock transaction records from said user or other users of the

program can be selectively displayed by said user. [see Trojan, Figure 4, item

450, the Examiner is interpreting the claim as a system is capable of providing

any feedback and item 450 is a feedback loop]

Note the examiner is interpreting the applicant's current claim 121 as

"intended use" only.

Re claim 122: Trojan discloses:

The workstation, which is capable of providing:

the feedback interface identifies a financial performance correlated with

(a) said user-subjective rationale; and/or (b) said technical indicator; and/or (e)

said third party opinion; and/or (d) said source of said subjective rationale, said

technical indicator, and/or said third party opinion. [See Trojan, Figure 4, item

435, the Examiner is interpreting the claim as a system is capable of allowing the

above user input and item 435 is user input]

Re claim 123: Trojan discloses:

The workstation, which is capable of providing:

the stored transaction information includes a calculation of a financial

performance associated with one or more stored stock transaction records from

said user and/or another user. [See Trojan, Fig 4, item 410 an input device is

capable of storing such information]

Re claim 124: Trojan discloses:

The workstation, which is capable of providing:

one or more stock stored stock transaction records are retrievable based

on a financial performance of the same. . [See Trojan, Fig 4, item 410 an input

device is capable of recieving such information]

Re claim 125: Trojan discloses:

The workstation, which is capable of providing:

financial performance also including user's average financial gain for any

of the user's stock transaction records. [See Trojan, Fig 4, item 410 an input

device is capable of receiving such information]

Re claim 126: Trojan discloses:

The workstation, which is capable of providing:

the feedback interface also provides an indicator recommending a course

of action to the user. [see Trojan, Figure 4, item 450, the Examiner is interpreting

the claim as a system is capable of providing any feedback and item 450 is a

feedback loop]

Re claim 127: Trojan discloses:

The workstation, which is capable of providing:

the user transaction information stock is collected from the user within a

single data collection window. [See Trojan, Fig 4, item 435 an input device is

capable of recieving such information]

Re claim 128: Trojan discloses:

The workstation, which is capable of providing:

the user can rank one or more of said items of information when creating

the user transaction information for the stock related transaction to identify

particular factors motivating the stock related transaction. [See Trojan, Fig 4, item

435 an input device is capable of receiving such information]

Re claim 129: Trojan discloses:

The workstation, which is capable of providing:

the transaction information can be retrieved so that the user can display at

least one of the following items of information for said one or more stored stock

transaction records: (a) said user-subjective rationale; (b) said technical indicator;

(c) said third party opinion; (d) and/or said source of said subjective rationale.

[See Trojan, Fig 4, item 435 an input device is capable of receiving such

information]

Re claim 130: Trojan discloses:

The workstation, which is capable of providing:

the feedback interface identifies for said user an ideal set of items of information to be used for said stock related transaction, including one or more subjective rationales, and/or or more technical indicators, and/or one or more third party opinions, and/or one or more sources for said technical indicators, subjective rationales and/or third party opinions. [see Trojan, Figure 4, item 450, the Examiner is interpreting the claim as a system is capable of providing any feedback and item 450 is a feedback loop]

Re claim 131: Trojan discloses:

The workstation, which is capable of providing:

at least one or more predefined technical indicators, one or more third predefined third party opinions, and/or one or more predefined sources of said predefined technical indicators and predefined third parry opinions are provided automatically by the program in said interface for selection by said user. [See Trojan, Fig 4, item 435 an input device is capable of receiving such information]

Re claim 132: Trojan discloses:

The workstation, which is capable of providing:

Implementation in Java programming language and executable from a website by an internet user within said Internet browser. [See Trojan, Column 4, item 56 on-line database]

Re claim 133: Trojan discloses:

The workstation, which is capable of providing:

said stock related transaction record can be modified at a later time to

include additional secondary user transaction information, including new insights,

understandings and/or lessons learned by said user from said stock related

transaction. [Trojan's system can be re-run at a later time with new information.]

Re claim 134: Trojan discloses:

The workstation, which is capable of providing:

a stock related transaction record further includes a purchase/sale price

associated with said stock related transaction. [See Trojan, Fig 4, item 410 an

input device is capable of receiving such information]

Re claim 135: Trojan discloses:

The workstation, which is capable of providing:

a database of stock trading transaction records, each stock trading

transaction record including the following information:

(i)   a stock trade date associated with a stock trade[see Torjan, Figure 4, item

440]; and

(ii)   a particular stock associated with said stock trade; and

(iii)   transaction information concerning said stock trade, including at least one

of the following items of information for engaging in said stock trade: (a) a

subjective rationale; (b) a technical indicator; (c) a third party opinion; (d) and/or a

source of said subjective rationale, said technical indicator, and/or said third party

opinion; and a query interface operable within an Internet browser, said query

interface being configured so that a user can selectively retrieve one or more of

said stock transaction records to assist said user in determining whether to

buy/sell a particular stock [See Trojan, Figure 4, item 435, the Examiner is

interpreting the claim as a system is capable of allowing the above user input and

item 435 is user input].

Re claim 136: Trojan discloses:

The workstation, which is capable of providing:

a feedback interface providing an expected financial performance

predicted based on said user buying/selling said particular stock. [see Trojan,

Figure 4, item 450, the Examiner is interpreting the claim as a system is capable

of providing any feedback and item 450 is a feedback loop]

Re claim 137: Trojan discloses:

The workstation, which is capable of providing:

A query interface is set up to includes a number of predefined subjective

rationales, and/or a number of predefined technical indicators, and/or a number

of predefined third party opinions, and/or a number of predefined sources of said

subjective rationale, said technical indicator, and/or said third party opinion to

assist said user in locating said one or more stock transaction records. [See

Trojan, Fig 4, item 435 an input device is capable of receiving such information]

Re claim 138: Trojan discloses:

The workstation, which is capable of providing:

A query interface is customizable by said user to include user-defined

query factors for retrieving said one or more stock transaction records. [See

Trojan, Fig 4, item 435 an input device is capable of receiving such information]

Re claim 139: Trojan discloses:

The workstation, which is capable of providing:

a first stock trading transaction interface operable within an Internet browser, said stock trading transaction interface being configured to receive the following information from a user for use by the program to create a first stock transaction record-

(i)   a date associated with a potential or actual stock purchase; and

(ii)   a particular stock associated with said potential or actual stock purchase; [see Torjan, Figure 4, item 440] and

(iii)   first transaction information from said user concerning said stock purchase, including at least one of the following items of information for engaging in said purchase of said stock: (a) a user-subjective rationale; (b) a technical indicator; (c) a third party opinion; (d) and/or a source of said subjective rationale, said technical indicator, and/or said third party opinion [See Trojan, Figure 4, item 435, the Examiner is interpreting the claim as a system is capable of allowing the above user input and item 435 is user input]; and

a second stock trading transaction interface also operable within an Internet browser, said second stock trading transaction interface being further configured to create a second stock transaction record for supplementing said first stock transaction record, said second stock transaction record including second transaction information concerning said stock trade, including any lessons and/or understandings associated with said first stock transaction record;

wherein both said first stock transaction record and said second stock transaction

record are retrievable by said user to assist in determining whether to buy/sell a

particular stock.

Re claim 140: Trojan discloses:

The workstation, which is capable of providing:

a first stock transaction record and said second stock transaction record

are retrieved within a query interface operable within said Internet browser based

on specifying a particular user, and/or a predefined user-subjective rationale,

and/or a predefined technical indicator, and/or a predefined third party opinion,

and/or a predefined source of said subjective rationale, said technical indicator,

and/or said third party opinion. [See Trojan, Fig 4, item 435 an input device is

capable of receiving such information]

Re claim 141: Trojan discloses:

The workstation, which is capable of providing:

a first stock transaction record represents a closed position and also

includes: (iv) a sale date for said stock associated with a sale of said stock; and

(v) a sale price associated with said sale of said stock. [See Trojan, Fig 4, item

435 an input device is capable of receiving such information]

Re claim 142: Trojan discloses:

The workstation, which is capable of providing:

items of information for engaging in said purchase of said stock can be

ranked by said user. [See Trojan, Fig 4, item 435 an input device is capable of

receiving such information]

Re claim 143: Trojan discloses:

The workstation, which is capable of providing:

lessons and/or understandings associated with said first stock transaction

record can be ranked by said user. [See Trojan, Fig 4, item 435 an input device

is capable of receiving such information]

Re claim 144: Trojan discloses:

The workstation, which is capable of providing:

lessons and/or understandings include options for specifying a usefulness of a

user-subjective rationale, and/or a technical indicator, and/or a third party

opinion, and/or a source of said subjective rationale, said technical indicator,

and/or said third party opinion. [See Trojan, Fig 4, item 435 an input device is

capable of receiving such information]

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claim 145 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Trojan et al. (U.S. Patent 5,297,032) in view of Markese ("Can you trust mutual

fund rankings?", by John Markese, Consumers Research Magazine, October

1993.)

Re claim 145: Torjan discloses:

A method of interacting and providing feedback to an online user concerning a stock trading related transaction, the method comprising the steps of

(a)   providing a transaction data collection interface operable within an Internet browser, said transaction data collection interface being configured to receive user-specified information concerning the stock trading related transaction [see Torjan, Figure 4, Item 435];

(b)   creating a stock transaction record based on said user specified information, said stock transaction record being stored on a server accessible to the user over the Internet and including information relating to the following:

i)   a potential or actual date for the stock trading related transaction [see Torjan, column 1, line 16-17 "orders for a specific security"]; and

ii)   a particular stock associated with the stock trading related [see Torjan, column 1, line 16-17 "orders for a specific security"];

Although Torjan has not explicitly state "user transaction information" Markese clearly shows ranking of securities. The examiner also sites official notice that user gather information to make their decision about purchasing of stock. It is a common practice for professional and novices to keep newpaper clipping, make mental notes of information told to them and even make rankings of information about a particular stock. In addition to individuals, corporations have complicated detailed systems for determining and ranking stocks.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Markese to Trojan.

It is clear that any system would be motivated to provide user transaction information to help assist users in making there stock pick and track their success.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 571.272.6799. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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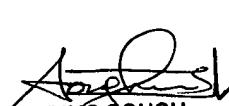
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